

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:16-CR-4572-001 MCA

-vs-

WILLIAM DOUGLAS WARWICK,

Defendant.

ORDER DENYING MOTION TO RECONSIDER CONDITIONS OF RELEASE

THIS MATTER is before the Court on defendant William Warwick’s opposed motion to reconsider conditions of release, filed on April 28, 2017. Doc. 48. Mr. Warwick is seeking “reconsideration” of the Court’s order detaining him, which was based on the Court’s finding that he is both a flight risk and a danger to the community. *See* Doc. 11 at 2–3. The Court denies Mr. Warwick’s motion for the following reasons.

First, although a judicial officer may reopen a detention hearing, she may do so only if she “finds that information exists that was not known to the movant [Mr. Warwick] at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.” 18 U.S.C. § 3142(f)(2). All the reasons that Mr. Warwick gives for his release—that he “operates his home as a quasi-homeless shelter,” that he provides food and work for people staying in his home, and that he was providing housing and work for two homeless people when he was arrested, Doc. 48 at 2—were known to Mr. Warwick on November 9, 2016 (the day of his detention hearing), and he could have presented this

information to the Court then. Moreover, this information has no bearing on whether Mr. Warwick poses a flight risk or a danger to the community. Thus, there is no basis to reopen the detention hearing.

Second, Mr. Warwick has not given the Court a valid reason to reconsider its original detention order. A Court may grant a motion to reconsider only if it has misapprehended the facts or law, a party's position, or to correct clear error or prevent manifest injustice. *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). Motions to reconsider are proper in criminal cases even though the Federal Rules of Criminal Procedure do not specifically provide for them. *United States v. Randall*, 666 F.3d 1238, 1241–42 (10th Cir. 2011). Mr. Warwick does not suggest in his motion that the Court misapprehended the facts or law, or his position, at the original detention hearing. *See* Doc. 48. And he says nothing in his motion that suggests that his continued detention constitutes clear error or a manifest injustice. Indeed, he acknowledges that since his detention hearing, he was been indicted on a charge that carries with it a rebuttable presumption that no condition or combination of conditions will reasonably assure his appearance or the safety of the community under 18 U.S.C. § 3142(e)(3)(A). Doc. 48 at 2. Mr. Warwick in no way suggests in his motion that he is able to rebut that presumption. The Court will not reconsider its original detention order.

IT IS THEREFORE ORDERED that defendant William Warwick's Opposed Motion to Reconsider Conditions of Release (Doc. 48) is denied.

DATED this 2nd day of May, 2017



Laura Fashing
United States Magistrate Judge